

TRUST LANDS ADMINISTRATION

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: DeMar Bud Bowman

LONG TITLE

General Description:

This bill provides an exemption from the Utah State Personnel Management Act for a certain position within the School and Institutional Trust Lands Administration.

Highlighted Provisions:

This bill:

- exempts the position of associate director within the School and Institutional Trust Lands Administration from the career service and state pay plan provisions of the Utah State Personnel Management Act; and
- makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-1-201, as last amended by Chapter 192, Laws of Utah 2003

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53C-1-201** is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets

within the state, except as otherwise provided in Chapter 3 of this title and Section 51-7-12.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) It is subject to the usual legislative and executive department controls except as ~~[follows:]~~ provided in this Subsection (3).

~~[(i)-(A)-the]~~ (b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63-2-304, for as long as is necessary to evaluate the ~~[proposals;]~~ proposal.

~~[(B)-the]~~ (ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal~~[:]~~.

~~[(C)-the]~~ (iii) The administration shall classify the proposal pursuant to law if it decides to proceed with the proposal~~[:and]~~.

~~[(D)]~~ (iv) Section 63-2-403 does not apply during the review period~~[:]~~.

~~[(ii)-the]~~ (c) The director shall make rules in compliance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, except that the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

~~[(A)]~~ (i) the changes in business opportunities affecting the assets of the trust;

~~[(B)]~~ (ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

~~[(C)]~~ (iii) the reasons the normal procedures under Section 63-46a-4 cannot be met without causing the loss of the specific opportunity;

~~[(D)]~~ (iv) approval by at least five board members; and

~~[(E)]~~ (v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Division of Administrative Rules and notified interested parties as provided in Subsection 63-46a-4(7)~~[:and]~~.

~~[(iii)-the]~~ (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State

Personnel Management Act, except as ~~[follows:]~~ provided in this Subsection (3)(d).

~~[(A) the]~~ (ii) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its responsibilities under the law. The director shall consult with the director of the Department of Human Resource Management prior to making such a recommendation.

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under ~~[Subsection]~~ Section 53C-1-305~~[(2)]~~, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1)~~[:]~~.

~~[(B) salary]~~ (iv) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges~~[: and]~~.

~~[(C) the]~~ (v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board~~[: and]~~.

~~[(iv) the]~~ (e) The administration shall comply with Title 63, Chapter 56, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of policies for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.

~~[(b)]~~ (f) (i) The board and director shall review the exceptions under this Subsection (3)~~[(a)]~~ and make recommendations for any modification, if required, which the Legislature would be asked to consider during its annual general session.

(ii) The board and director may include in their recommendations any other proposed exceptions from the usual executive and legislative controls the board and director consider necessary to accomplish the purpose of this title.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act.

(6) In connection with joint ventures for the development of trust lands and minerals approved by the board under [~~Subsections~~ Sections 53C-1-303~~(4)(c)~~] and 53C-2-401~~(1)(d)~~], the administration may become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, and is considered a person under Section 48-2c-102 [~~for such purposes~~].